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FISCAL IMPACT STATEMENT

LS 6582

BILL NUMBER: SB 455

NOTE PREPARED: Jan 7, 2004

BILL AMENDED:

SUBJECT: Small Claims Courts.

FIRST AUTHOR: Sen. Merritt

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- A. It provides that the jurisdictional amount for small claims or city court actions includes attorney's fees.
- B. It reduces to \$3,000 the jurisdictional amount in small claims or city court actions not involving landlord-tenant disputes, and removes a provision that would have increased the jurisdictional amount to \$6,000 in 2005.
- C. It permits a pretrial hearing to determine whether a claim is frivolous.
- D. It prohibits the granting of a continuance solely on the basis that the party is not represented by an attorney.
- E. It requires the judge to file a brief memorandum documenting the reasons for the judgment.

Effective Date: July 1, 2004; July 1, 2005.

Explanation of State Expenditures:

Explanation of State Revenues: *Background:* P.L. 167-2003 increased the current small claims limit in counties to \$6,000 effective July 1, 2005. This bill would repeal this change, keeping the limit at \$3,000. In addition, this bill would add the amount of attorney's fees as part of the award that the litigant is seeking to the \$3,000 threshold to determine whether a case could be filed in small claims court. In small claims cases, litigants seeking a damage award are likely to request attorneys fees as well as damages.

Consequently, when attorney's fees are included in the total award to determine whether the case is eligible to be filed in small claims court, an indeterminable number of cases will be shifted from small claims to civil

court.

This bill would affect the following courts:

- Courts with small claims dockets in circuit, superior, and county courts.
- In Lake County, city courts or the cities with the 4 largest populations and the court in the town with the largest population.
- City courts in third class cities that are not county seats.
- Marion County Small Claims Courts.

Note: City courts other than the courts in Lake County and in third class cities have jurisdiction for cases where the amount of controversy is \$500 or less (IC 33-10.1-2-3.1) and town courts other than the largest in Lake County have jurisdiction over misdemeanors, infractions, and ordinance violations (IC 33-10.1-2-7).

Revenue Increase: More court fee revenue could shift to the state General Fund in one of three ways.

(1) Shift in filings from city courts to trial courts - In counties that have a city court in a third class city (those with less than 35,000), more cases that could have been filed in a city court would now be filed in the civil docket of a trial court. For each civil case filed in a trial court and not in a city or town court, the state General Fund would gain \$15.

		<u>Trial Court</u>		<u>City or Town Court</u>	<u>Difference</u>
Filing Fee		\$100.00		\$100.00	
State Share	x	<u>70%</u>	<u>x</u>	<u>55%</u>	
Total		<u>\$70.00</u>		<u>\$55.00</u>	<u>\$15.00</u>

The city courts affected include Alexandria, Attica, Aurora, Batesville, Bicknell, Butler, Charlestown, Clinton, Dunkirk, Elwood, Gas City, Lake Station, Montpelier, Nappanee, New Haven, Union City, West Lafayette, and Whiting. In Lake County, the city courts affected are in Gary, Hammond, East Chicago, and Hobart and the town court in Merrillville.

(2) Shift in filings from small claims dockets in trial courts to civil dockets in trial courts. For each case shifted from the small claims docket to a civil docket, the state General Fund would gain \$45.50

	<u>Civil</u>	<u>Small Claims</u>	<u>Difference</u>
Filing Fee	\$100.00	\$35.00	
State Share	70%	70%	
Total	<u>\$70.00</u>	<u>\$24.50</u>	<u>\$45.50</u>

(3) Shifting Cases from Marion County Small Claims Court to Marion Municipal Courts: The revenue gain would be \$70, because the Marion County Small Claims Courts retain all fees that they collect.

Explanation of Local Expenditures:

Explanation of Local Revenues: This bill could result in three different case shifts that would affect where court fees are deposited:

- From small claims to civil plenary within the trial court system.
- From city courts in certain cities or towns to trial courts.
- From Marion County Small Claims Courts to Marion County Superior Courts.

(1) Shifting more cases from small claims to a civil docket would result in a revenue gain for local governments. The local general funds would gain \$19.50 for each case that is filed as a civil plenary case than as a small claims case.

		<u>Civil</u>		<u>Small Claims</u>	<u>Difference</u>
Filing Fee		\$100.00		\$35.00	
Local Share	x	30%	x	30%	
Total		<u>\$30.00</u>		<u>\$10.50</u>	<u>\$19.50</u>

(2) Shifting more cases from city and town courts to civil dockets of trial courts would reduce the revenue that local general funds would receive by \$15.

		<u>Trial Court</u>		<u>City or Town Court</u>	<u>Difference</u>
Filing Fee		\$100.00		\$100.00	
Local Share	x	<u>30%</u>	<u>x</u>	<u>45%</u>	
Total		<u>\$30.00</u>		<u>\$45.00</u>	<u>(\$15.00)</u>

(3) Shifting cases from Marion County Small Claims to Marion County Superior Courts would increase the fee revenue that Marion County general fund would receive by \$30, since fees paid in Marion County Small Claims Courts are kept at the township level. Conversely, this shift will cause a loss of revenue for the Marion County Small Claims Courts.

State Agencies Affected:

Local Agencies Affected: Trial courts and city courts in Allen, Blackford, Clark, Dearborn, DeKalb, Elkhart, Fountain, Grant, Jay, Knox, Lake, Madison, Marion, Randolph, Ripley, Tippecanoe, and Vermillion Counties.

Information Sources: *Indiana Judicial Service Report*, 2002; Indiana Code

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